

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. G905912**

GREGORY PATTERSON, EMPLOYEE

CLAIMANT

CITY OF MONETTE, EMPLOYER

RESPONDENT

**MUNICIPAL LEAGUE WC PROGRAM, CARRIER/
ARKANSAS MUNICIPAL LEAGUE, TPA**

RESPONDENT

OPINION FILED SEPTEMBER 5, 2024

Hearing before Administrative Law Judge Steven Porch on July 26, 2024, in Jonesboro, Arkansas.

Claimant was represented by Mr. Matthew J. Ketcham, Attorney at Law, Fort Smith, Arkansas.

Respondents were represented by Ms. Mary K. Edwards, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A full hearing was held on this claim on July 26, 2024. A prehearing telephone conference took place on February 27, 2024. A prehearing order was filed on that date. However, an amended prehearing order was filed on February 28, 2024, amending the issue, and subsequently entered into evidence as Commission Exhibit 1. The parties' stipulations are set forth.

STIPULATIONS

By agreement of the parties, the stipulations applicable to this claim are as follows:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. An employer/employee/carrier relationship existed among the parties on or about September 10, 2019.
3. The Claimant sustained a compensable head injury.

ISSUES

The parties have identified the following issue to be adjudicated:

1. Whether Claimant is entitled to additional reasonable and necessary medical treatment for his compensable head injury, specifically headaches and seizures.

All other issues are reserved.

CONTENTIONS

Claimant Contentions.

Claimant contends that he was injured on September 10, 2019, when he was a passenger on an ATV in which the driver took a turn too fast causing the Claimant to be ejected from the vehicle which caused an injury to his head and brain. The Claimant was life-flighted to Regional One Health Medical Center in Memphis, Tennessee for emergency treatment. He was hospitalized for two days and was discharged with a head injury and intraparenchymal hemorrhage of the brain. The Claimant followed-up with a neurosurgery within one month. The Claimant followed-up with therapy including speech therapy within a month of the injury. On October 1, 2019, the Claimant was seen by Dr. John Brophy for follow-up on the traumatic head injury. On December 19, 2019, the Claimant was seen at St. Bernard's Medical Center for increased headaches. The Claimant continued to follow-up with Dr. Brophy for continued increase in headaches and was released on January 22, 2019. The Claimant continued regular treatment and imaging of his head due to ongoing and continuous headaches. The Claimant began to have seizures along with numbness on the left side of his body and was seen at NEA Baptist Hospital wherein testing and evaluations have been performed as well as continued follow-up with the Semmes-Murphy Clinic.

Respondent Contentions.

Respondents contend that Claimant's head injury was accepted as compensable, and he has received all reasonable and necessary medical treatment and indemnity benefits. On September

10, 2019, Claimant jumped out of a mule and hit his head. He was med-flighted to the Regional One Health Medical Center in Memphis. Claimant saw Dr. Brophy, who released him to full duty, placing him at maximum medical improvement and no improvement rating on January 22, 2020. Claimant saw a neuropsychologist, Dr. Zolten on December 9, 2021. Dr. Zolten noted his memory was normal and did not recommend further treatment for the compensable injury. Dr. Brophy confirmed that Dr. Zolten's neuropsychologist report was normal and released him from his care on January 25, 2022. Respondents are not aware of any further medical treatment or treatment recommendations.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, including medical reports, non-medical documents, and other matters properly before the Commission, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The stipulations set forth above are reasonable and are hereby accepted.
3. The Claimant has proven by the preponderance of the evidence that he is entitled to reasonable and necessary medical treatment for his headaches and seizures.

CASE IN CHIEF

Summary of Evidence

The record consisted of Claimant's Exhibit 1, Medical Records, that consists of 109 pages, Respondent Exhibit 1, medical records, consisting of 84 pages, Respondents Exhibit 2, medical and Indemnity logs, consisting of 4 pages, and Commission Exhibit 1, Pre-Hearing Order, that consists of 5 pages. I have also blue-backed Claimant's and Respondents' post-hearing briefs. I

also had the opportunity to hear the testimony and observe the demeanor of the Claimant, who was the only witness in the full hearing.

The Claimant worked in road construction for Respondent/Employer. Claimant suffered a compensable head injury on September 10, 2019, when he was thrown from an ATV injuring his head. This resulted in a closed head injury with intracranial hemorrhage. Resp. Ex. 1, page 18. The Respondents accepted the injury as compensable and paid temporary total disability and medical benefits for Claimant. Though Claimant, through direct testimony, agreed he has completed occupational therapy that improved his speech and standing, he continues to receive medical treatment for headaches. See Resp. Ex. 1, pages 14 – 16. Respondents sent Claimant to Dr. John Brophy at the Semmes-Murphy Clinic in Memphis on October 1, 2019. Resp. Ex. 1, pages 18 – 22. Dr. Brophy cleared Claimant to return to school, as he was a high school student, and return to work with restrictions. The Claimant received a CT scan of his head on December 19, 2019, that found no evidence of acute intracranial hemorrhage. Resp. Ex. 1, page 36. This time Dr. Brophy released Claimant to return to work full duty without restrictions on January 22, 2020. Resp. Ex. 1, pages 37 - 42. Dr. Brophy also found that he did not sustain any permanent impairment and that he has reached maximum medical improvement or the end of his healing period on January 22, 2020. *Id.*

On August 22, 2020, the Claimant was involved in a motor vehicle accident where he injured his neck, upper to mid back, right forearm, and right knee. Resp. Ex. 1, pages 43 – 47. A C-collar was placed on Claimant while in triage to limit the movement of his neck. A CT scan of Claimant's cervical spine was normal. Resp. Ex. 1, page 46. The Claimant saw Dr. John Brophy again on September 28, 2021, one year and nine months from his last visit, and was recommended for a neuropsych evaluation on December 9, 2021; Dr. A.J. Zolten, Clinical Neuropsychologist,

performed the evaluation. Resp. Ex. 1, page 57 - 60. The neuropsychological testing revealed subtle to mild residual auditory/verbal weaknesses including modestly lower-than-expected core auditory cognitive skills, paraphasia noted during confrontational naming, and low average FAS verbal fluency. *Id.* All these findings are mildly weaker than expected. *Id.* Dr. Zoltan made clear in his report that since Claimant is two years post injury, these problems are likely to be chronic, but he doubts that these problems will interfere with overall functioning when considering activities for daily living or his work. *Id.* Dr. Zolten concludes his report by stating memory, motor, visual perceptual, and executive skills were all entirely within the normal limits. *Id.* Dr. Brophy opined, during a January 25, 2022, follow-up visit to review Dr. Zolten's evaluation, that no significant cognitive problems are noted based on the neuropsychological evaluation that was two years post closed head injury. Resp. Ex. 1, pages 61 -64. Claimant was cleared to remain at work on full duty without restrictions. *Id.* Dr. Brophy also opined that "no further treatment is indicated at this time." *Id.*

Claimant next visited the Buffalo Island Medical Clinic on July 25, 2022, complaining about episodes of "passing out". Claimant's Ex. 1, pages 1 – 4. The Claimant testified that these episodes of 'passing out' were contributed to seizures. The Claimant received an MRI of his head in an effort to discover the source of these fainting spells or syncope on August 8, 2022. The MRI report stated that "No abnormal areas of enhancement are noted within the brain." Claimant's Ex. 1, pages 14 – 15. The final impression of the report was a "negative MRI of the brain with contrast." Despite the Claimant's MRI noting a normal brain, the Claimant was prescribed Keppra, a seizure medication, and continued to be treated for seizures. The Respondents, at this time, were not paying for treatment of the headaches nor the seizures. Respondents stopped paying benefits to Claimant on January 25, 2022.

Adjudication

- A. Whether Claimant is entitled to additional reasonable and necessary medical treatment for his compensable head injury, specifically for headaches and seizures.

Arkansas Code Annotated Section 11-9-508(a) (Repl. 2012) states that an employer shall provide for an injured employee such medical treatment as may be necessary in connection with the injury received by the employee. *Wal-Mart Stores, Inc. v. Brown*, 82 Ark. App. 600, 120 S.W.3d 153 (2003). But employers are liable only for such treatment and services as are deemed necessary for the treatment of the claimant's injuries. *DeBoard v. Colson Co.*, 20 Ark. App. 166, 725 S.W.2d 857 (1987). The claimant must prove by a preponderance of the evidence that medical treatment is reasonable and necessary for the treatment of a compensable injury. *Brown, supra*; *Geo Specialty Chem. v. Clingan*, 69 Ark. App. 369, 13 S.W.3d 218 (2000). What constitutes reasonable and necessary medical treatment is a question of fact for the Commission. *White Consolidated Indus. v. Galloway*, 74 Ark. App. 13, 45 S.W.3d 396 (2001); *Wackenhut Corp. v. Jones*, 73 Ark. App. 158, 40 S.W.3d 333 (2001).

As the Arkansas Court of Appeals has held, a claimant may be entitled to additional treatment even after the healing period has ended, if said treatment is geared toward management of the injury. *See Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004); *Artex Hydroponics, Inc. v. Pippin*, 8 Ark. App. 200, 649 S.W.2d 845 (1983). Such services can include those for the purpose of diagnosing the nature and extent of the compensable injury; reducing or alleviating symptoms resulting from the compensable injury; maintaining the level of healing achieved; or preventing further deterioration of the damage produced by the compensable injury. *Jordan v. Tyson Foods, Inc.*, 51 Ark. App. 100, 911 S.W.2d 593 (1995); *Artex, supra*. A

claimant is not required to furnish objective medical evidence of his continued need for medical treatment. *Castleberry v. Elite Lamp Co.*, 69 Ark. App. 359, 13 S.W.3d 211 (2000).

But to prove his entitlement to the treatment at issue, Claimant must also prove that it is causally related to his compensable injury of September 10, 2019. *See Pulaski Cty. Spec. Sch. Dist. v. Tenner*, 2013 Ark. App. 569 (2013)

I find by the preponderance of the evidence that Claimant has proven he is entitled to additional medical treatment for his headaches and treatment for seizures. Though I make this finding, I do acknowledge Respondents' arguments to the counter. For example, Claimant mentioned to Dr. Brophy on October 22, 2019, that he was having increased headaches when using his computer at school. Dr. Brophy, during a clinic visit on January 21, 2022, opined that Claimant's headaches have improved. Resp. Ex. 1, pages 37 – 39. Claimant's next follow up visit with Dr. Brophy occurred on September 28, 2021, over a year and a half since his last visit, and Claimant did not report a headache. Resp. Ex. 1, pages 52 – 55. The next clinic visit was on January 25, 2022, there Dr. Brophy noted that Claimant had fatigue "without headaches". It would appear that Claimant's headaches had resolved but being symptom free for a period of time does not equate to the complete resolution of the symptom. Which is evident in this case that the headaches have returned, and the evidentiary record does not provide any other explanation for the headaches other than the compensable closed head injury. This is the same for the seizures.

Claimant in an August 2, 2022, medical report by Neurology Associates of Northeast Arkansas PA, written approximately three years after the work-related injury, stated he has been experiencing severe headaches and passing out episodes for at least the last two months. Claimant's Ex. 1, pages 5 – 13. Dr. Ronald South prescribed Claimant Keppra, a seizure medication. *Id.* Dr. South did not state in his report that the seizures were related to the Claimant's

compensable work-related head injury. Moreover, when Claimant visited the Neurology Associates of Northeast Arkansas on April 5, 2023, he was experiencing left side numbness, left side facial numbness, and blurry vision for a week that resulted in a trip to the emergency room at NEA. Claimant's Ex. 1, pages 53 – 57. The ER doctors concluded that it was a pinched nerve and gave him a Toradol shot. *Id.* The treatment of the pinched nerve was successful in dealing with Claimant's symptoms, except for the headaches. *Id.* I do not find that Claimant's numbness was the result of a seizure, rather a pinched nerve. However, Claimant is suffering from seizures and there are no other explanations for them from the evidentiary record other than the work-related compensable head injury. Claimant's Ex. 1, pages 71-80. Therefore, I find that the Claimant has proven by the preponderance of the evidence a causal connection between Claimant's headaches and seizures and his compensable work-related injury. Thus, Claimant is entitled to additional medical treatment for his headaches and seizures.

CONCLUSION

In accordance with the Findings of Fact and Conclusions of Law set forth above, Claimant's requests for additional medical treatment for headaches and seizures are denied and all parties shall act consistent with this opinion.

IT IS SO ORDERED.

Hon. Steven Porch
Administrative Law Judge